# DAs

## AT: Endowments DA

### AT: Endowments

#### 1. This DA has no link or uniqueness—five warrants.

Rotherham 12 Andrew J. (Special Assistant to the President for Domestic Policy during the Clinton administration and is a former member of the Virginia Board of Education) “College Endowments: Why Even Harvard Isn’t as Rich as You Think” Time February 9th 2012 <http://ideas.time.com/2012/02/09/college-endowments-why-even-harvard-isnt-as-rich-as-you-think/> JW

1. Most schools don’t have them. There are 2,719 four-year colleges in the U.S. (and another 1,690 two-year colleges), according to the most recent Department of Education figures. Most higher-education institutions have no endowment, says William Jarvis, managing director and head of research at the CommonFund Institute, which helps NACUBO with its endowment surveys. But as with everything else around higher education, it’s the elite schools — which tend to be the ones that have large endowments — that drive the conversation. Endowments just aren’t a big factor at most of the institutions of higher education in this country. 2. Many endowments are not that big. The endowments at schools like Harvard or Yale (No. 2, with $19.3 billion) or even public universities like the University of Texas (No. 3, at $17.1 billion) get the attention. But of the 823 U.S. colleges and universities that responded to a NACUBO survey (which also included Canadian schools), only 73 had endowments that topped $1 billion; 137 had less than $25 million. Of the U.S. schools in the NACUBO survey, the median endowment size is $90 million. Not too shabby, but at the standard expenditure rate, an endowment that size generates only about $4.5 million in spendable dollars per year. That’s a decent chunk of change, but hardly enough to eliminate student debt and rely on investment returns instead. Even Cooper Union, the famously no-tuition college in New York City (No. 126, at $607 million), is struggling financially, and indicated this past fall that it is considering charging tuition for the first time in a century. 3. The recession is still taking a toll. Endowments on average earned 19% returns on their investments in the last fiscal year, according to NACUBO. Who wouldn’t like earnings like that? But they lost about the same amount in 2009. Many schools have not fully rebounded from the downturn: 47% of endowments have less than they did in 2008, according to NACUBO. (MORE: Can GE Help Bring Common Core Standards to Life?) 4. Donors don’t always write blank checks. When your alma mater calls you and asks for a donation, it’s really hoping you’ll give to its general fund, where the use of your donation is unrestricted. Donations you give for scholarships or specific degrees, programs or activities can be used only for those purposes. It’s the same with large donations, and large donations frequently come with donor restrictions — for instance, a specifically endowed chair for a professor or a particular area of research. Sometimes a school can renegotiate with a donor to increase flexibility, such as using proceeds from an endowed chair for another purpose until a suitable hire can be found. Such revisions get complicated when the donors are no longer living. Bottom line: a lot of the money in those big endowments has claims on it, including at Harvard (where, by the way, I am a member of the visiting committee at the Graduate School of Education.) 5. Endowments are not all cash. Remember the various exotic investments that helped trigger the financial meltdown? Just like other big-time investors, endowments were attracted to private-equity deals, real estate, hedge funds, commodities and the like. NACUBO estimates that 54% of endowments are tied up in these alternative and illiquid investments. This style of endowment investing was pioneered by Yale’s David Swenson and subsequently became known as the “Harvard-Yale” model. A few years ago, when the downturn began, the endowments of those two schools — and all the others that had followed their example — got hammered. Back then, everyone wanted to be like Harvard and Yale — and they got their wish. When Ken Redd, NACUBO’s director of research and policy analysis, asked endowment leaders what they’re most worried about, they said another fiscal crisis that could trigger a shortage of cash. In that way, endowments are just like many Americans: overextended, with big dreams and not enough cash on hand.

#### 2. No link—your evidence says increased protests alienate potential donors, but it never explains why the aff increases protests.

#### 3. Alumni donations only are a small portion of endowments—most of it is given by governments, which the aff doesn’t affect.

#### 4. No uniqueness, protests are already high on campus—Donald Trump proves. Student activism is increasing regardless of whether the aff does anything.

#### 5. Even if some endowment is cut, it won’t come from the STEM research instantly, they’ll take it away from non-essential areas.

#### 6. Your link evidence is about Amherst but the aff only affects public schools—that slashes your internal link in half and proves your evidence isn’t applicable.

### Heg Bad

#### Heg ticks off Russia and China—world war three.

Durden 16Tyler “For Russia & China, It's “Accept American Hegemony” Or “Go To War”” May 7th 2016 Zero Hedge <http://www.zerohedge.com/news/2016-05-07/russia-china-its-accept-american-hegemony-or-go-war> JW

Washington’s position shows that Washington is a firm believer that only Washington’s interests are important. If other peoples wish to retain national sovereignty, they are simply being selfish. Moreover, they are out of compliance with Washington, which means they can be declared a “threat to American national security.” The British people are not to be permitted to make decisions that do not comply with Washington’s interest. My prediction is that the British people will either be deceived or overridden. It is Washington’s self-centeredness, the self-absorption, the extraordinary hubris and arrogance, that explains the orchestrated “Russian threat.” Russia has not presented herself to the West as a military threat. Yet, Washington is confronting Russia with a US/NATO naval buildup in the Black Sea, a naval, troop and tank buildup in the Baltics and Poland, missile bases on Russia’s borders, and plans to incorporate the former Russian provinces of Georgia and Ukraine in US defense pacts against Russia. When Washington, its generals and European vassals declare Russia to be a threat, they mean that Russia has an independent foreign policy and acts in her own interest rather than in Washington’s interest. Russia is a threat, because Russia demonstrated the capability of blocking Washington’s intended invasion of Syria and bombing of Iran. Russia blunted one purpose of Washington’s coup in the Ukraine by peacefully and democratically reuniting with Crimera, the site of Russia’s Black Sea naval base and a Russian province for several centuries. Perhaps you have wondered how it was possible for small countries such as Iraq, Libya, Syria, Yeman, and Venezuela to be threats to the US superpower. On its face Washington’s claim is absurd. Do US presidents, Pentagon officials, national security advisors, and chairmen of the Joint Chiefs of Staff really regard countries of so little capability as military threats to the United States and NATO countries? No, they do not. The countries were declared threats, because they have, or had prior to their destruction, independent foreign and economic policies. Their policy independence means that they do not or did not accept US hegemony. They were attacked in order to bring them under US hegemony. In Washington’s view, any country with an independent policy is outside Washington’s umbrella and, therefore, is a threat. Venezuela became, in the words of US President Obama, an “unusual and extraordinary threat to the national security and foreign policy of the United States,” necessitating a “national emergency” to contain the “Venezuelan threat” when the Venezuelan government put the interests of the Venezuelan people above those of American corporations. Russia became a threat when the Russian government demonstrated the ability to block Washington’s intended military attacks on Syria and Iran and when Washington’s coup in the Ukraine failed to deliver to Washington the Russian Black Sea naval base. Clearly Venezuela cannot possibly pose a military threat to the US, so Venezuela cannot possibly pose an “unusual and extraordinary threat to the national security of the US.” Venezuela is a “threat” because the Venezuelan government does not comply with Washington’s orders. It is absolutely certain that Russia has made no threats whatsoever against the Baltics, Poland, Romania, Europe, or the United States. It is absolutely certain that Russia has not invaded the Ukraine. How do we know? If Russia had invaded Ukraine, the Ukraine would no longer be there. It would again be a Russian province where until about 20 years ago Ukraine resided for centuries, for longer than the US has existed. Indeed, the Ukraine belongs in Russia more than Hawaii and the deracinated and conquered southern states belong in the US. Yet, these fantastic lies from the highest ranks of the US government, from NATO, from Washington’s British lackeys, from the bought-and-paid-for Western media, and from the bought-and-paid-for EU are repeated endlessly as if they are God’s revealed truth. Syria still exists because it is under Russian protection. That is the only reason Syria still exists, and it is also another reason that Washington wants Russia out of the way. Do Russia and China realize their extreme danger? I don’t think even Iran realizes its ongoing danger despite its close call. If Russia and China realize their danger, would the Russian government permit one-fifth of its media to be foreign owned? Does Russia understand that “foreign owned” means CIA owned? If not, why not? If so, why does the Russian government permit its own destabilization at the hands of Washington’s intelligence service acting through foreign owned media? China is even more careless. There are 7,000 US-funded NGOs (non-governmental organizations) operating in China. Only last month did the Chinese government finally move, very belatedly, to put some restrictions on these foreign agents who are working to destabilize China. The members of these treasonous organizations have not been arrested. They have merely been put under police watch, an almost useless restriction as Washington can provide endless money with which to bribe the Chinese police. Why do Russia and China think that their police are less susceptible to bribes than Mexico’s or American police? Despite the multi-decade “war on drugs,” the drug flow from Mexico to the US is unimpeded. Indeed, the police forces of both countries have a huge interest in the “war on drugs” as the war brings them riches in the form of bribes. Indeed, as the crucified reporter for the San Jose Mercury newspaper proved many years ago, the CIA itself is in the drug-running business. In the United States truth-tellers are persecuted and imprisoned, or they are dismissed as “conspiracy theorists,” “anti-semites,” and “domestic extremists.” The entire Western World consists of a dystopia far worse than the one described by George Orwell in his famous book, 1984. That Russia and China permit Washington to operate in their media, in their universities, in their financial systems, and in “do-good” NGOs that infiltrate every aspect of their societies demonstrates that both governments have no interest in their survival as independent states. They are too scared of being called “authoritarian” by the Western presstitute media to protect their own independence. My prediction is that Russia and China will soon be confronted with an unwelcome decision: accept American hegemony or go to warå.

## AT: Hate Speech DA

#### 1. Speech codes don’t solve—hate speech has been on the rise despite them.

ACLU 01 American Civil Liberty Union “Hate Speech on Campus” 2001 https://www.aclu.org/other/hate-speech-campus JW

In recent years, a rise in verbal abuse and violence directed at people of color, lesbians and gay men, and other historically persecuted groups has plagued the United States. Among the settings of these expressions of intolerance are college and university campuses, where bias incidents have occurred sporadically since the mid-1980s. Outrage, indignation and demands for change have greeted such incidents -- understandably, given the lack of racial and social diversity among students, faculty and administrators on most campuses.

#### 2. No link: Hate speech isn’t protected due to the “Fighting words” doctrine

Kermit 02 Hall, Kermit L. {President of the University at Albany, Former President of History Department at Utah State, Judicial Fellow under Chief Justice Warren berger} “Free Speech on Public College Campuses Overview“ September 13 2002 JS http://www.firstamendmentcenter.org/free-speech-on-public-college-campuses

Speech codes have emerged from this constitutional milieu. They are the most controversial ways in which universities have attempted to strike a balance between expression and community order. Many major universities have introduced these codes to deal especially with so-called hate speech; that is, utterances that have as their object groups and individuals that are identified on the basis of race, ethnicity, gender or sexual orientation. Beginning in the 1980s, a variety of studies, including one by the Carnegie Foundation for the Advancement of Teaching titled “Campus Tensions,” highlighted instances of racial hatred and harassment directed at racial minorities. Over the past two decades the harassment has grown to include gays and lesbians, women and members of other ethnic groups. On several campuses white students have worn blackface for sorority and fraternity parties. On one campus a flier was distributed that warned: “The Knights of the Ku Klux Klan Are Watching You.” Many campuses responded to such actions by adopting policies that officially banned such expression and made those found guilty of engaging in it susceptible to punishments ranging from reprimands to expulsion. The idea, of course, was to chill the environment for such expression by punishing various forms of speech based on either content or viewpoint. These codes found strong support from some administrators, faculty and students who were convinced that by controlling speech it would be possible to improve the climate for racial and other minorities. The assumption behind the codes was that limiting harassment on campus would spare the would-be victims of hate speech psychological, emotional and even physical damage. The supporters of such codes also argued that they represented good educational policy, insisting that such bans meant that the learning process on campus would not be disrupted and that the concept of rational discourse, as opposed to hate-inspired invective and epithet, would be enshrined. In developing these codes, university administrators relied on a well-known Supreme Court doctrine — i.e., the “fighting words” exception developed in the 1942 decision Chaplinsky v. New Hampshire. Justice Frank Murphy, writing for a unanimous court, found that Walter Chaplinsky had been appropriately convicted under a New Hampshire law against offensive and derisive speech and name-calling in public. Murphy developed a two-tier approach to the First Amendment. Certain “well-defined and narrowly limited” categories of speech fall outside the bounds of constitutional protection. Thus, “the lewd and obscene, the profane, the libelous,” and insulting or “fighting” words neither contributed to the expression of ideas nor possessed any “social value” in searching for truth. While the Supreme Court has moved away from the somewhat stark formation given the fighting-words doctrine by Justice Murphy, lower courts have continued to invoke it. More important, universities have latched on to it as a device by which to constitutionalize their speech codes. The University of California in 1989, for example, invoked the fighting-words doctrine specifically, and other institutions of higher learning have done the same. Some institutions have recognized that the protean and somewhat vague nature of the fighting-words doctrine had to be focused. In 1990 the University of Texas developed a speech code that placed emphasis on the intent of the speaker to engage in harassment and on evidence that the effort to do so had caused real harm. Still other institutions, most notably the University of Michigan, attempted to link their speech codes to existing policies dealing with non-discrimination and equal opportunity. That tactic aimed to make purportedly offensive speech unacceptable because it had the consequence of producing discriminatory behavior.

#### 3. No uniqueness—hate speech is already increasing massively because of Trump. That’s Okeowo 16. There’s only a chance the aff can reduce it, rather than shutting Trumps supporters up, we have to challenge the root cause of their biases.

#### 4. Empirically, hateful ideologies have only been solved by public debates about their merits. Increased knowledge has forced people to confront their prejudices and often change them. Outweighs on probability, it’s been empirically tested by every major social movement. That’s Rauch 13.

#### 5. Counterspeech solves hate speech. That’s Calleros 95. Without speech codes, students will create grassroots responses to the hateful speech, which change hearts and minds while creating a more empowering environment than speech codes, have. Empirically proven by ASU and Stanford.

#### 6. Social science confirms counterspeech—studies prove that when people give rebuttals to prejudiced speech, listeners are more likely to change their minds. Studies outweigh—they’re the most objective way to test what works because they’re peer-reviewed and not just anecdotal or speculative.

#### 7. Speech codes don’t solve—they just push the hate underground which a) still allows bigotry to persist and b) makes it impossible to address. That’s ACLU 01.

#### 8. Exposure to hate speech is key to rejecting its harmful effects. If we shield people from what the world is really like, they won’t be able to cope when they leave college—psychological research confirms this. That’s Lukianoff and Haidt 15.

#### 9. Speech codes are empirically counterproductive—they set precedents that allow allow the suppression of progressive activists which non/uniques their impact. That’s ACLU 01.

#### 10. Speech codes get used to target minorities—UMich proves that white students charge black students with frivolous offenses of hate speech. That’s ACLU 01.

#### 10. Speech codes get corrupted and used to cause oppression.

Greenwald 13 Glenn Greewald “France's censorship demands to Twitter are more dangerous than 'hate speech'” January 2nd 2013 The Guardian <https://www.theguardian.com/commentisfree/2013/jan/02/free-speech-twitter-france>

But there are no views that I hold which I think are so sacred, so objectively superior, that I would want the state to bar any challenge to them and put in prison those who express dissent. How do people get so convinced of their own infallibility that they want to arrogate to themselves the power not merely to decree which views are wrong, but to use the force of the state to suppress those views and punish people for expressing them? The history of human knowledge is nothing more than the realization that yesterday's pieties are actually shameful errors. It is constantly the case that human beings of the prior generation enshrined a belief as objectively, unchallengably true which the current generation came to see as wildly irrational or worse. All of the most cherished human dogmas - deemed so true and undeniable that dissent should be barred by the force of law - have been subsequently debunked, or at least discredited. How do you get yourself to believe that you're exempt from this evolutionary process, that you reside so far above it that your ideas are entitled to be shielded from contradiction upon pain of imprisonment? The amount of self-regard required for that is staggering to me. There's no scientific formula for determining what is "hate speech". It's inherently subjective. Every comment section on the internet - involving endless debates about which ideas should and should not be banned - proves that, including the comment section that quickly sprung up in response to Farago's pro-censorship column, where numerous conservative or "New Labour"-type Guardian readers opined that the real "hate speech" are the Guardian columns that criticize Israel, the US, and other western institutions they like. If "hate speech" is to be banned, those commenters predictably argued, we should start with left-wing Guardian columns. That's the same mindset that took this concept of "hate speech" and used it to criminally prosecute a British Muslim teenager for the "crime" of posting a Facebook message that said that "all soldiers should die and go to hell" - a message he posted out of anger over the killing of civilians as part of the war in Afghanistan. When you sow censorship theories, that's what you reap, because nobody has a lock on what ends up on the list of "hateful" and thus criminalized ideas. Personally, I regard the pro-censorship case - the call for the state to put people in cages for expressing prohibited ideas - as quite hateful. I genuinely consider pro-censorship arguments to be its own form of hate speech. In fact, if I were forced to vote on which ideas should go on the Prohibited List of Hateful Thoughts, I would put the desire for state censorship - the desire to imprison one's fellow citizens for expressing ideas one dislikes - at the top of that list. Nothing has been more destructive or dangerous throughout history - nothing - than the power of the state to suppress and criminalize opinions it dislikes. I regard calls for suppression of ideas as far more menacing than - and at least just as hateful as - bigoted Twitter hashtags and online homophobic jokes. Ultimately, the only way to determine what is and is not "hate speech" is majority belief - in other words, mob rule. Right now, minister Vallaud-Belkacem and Farago are happy to criminalize "hate speech" because majorities - at least European ones - happen to agree with their views on gay people and women's equality. But just a couple decades ago, majorities believed exactly the opposite: that it was "hateful" and destructive to say positive things about homosexuality or women's equality. And it's certainly possible that, tomorrow, majorities will again believe this, or believe something equally bad or worse.

## AT: ILaw DA

#### 1. Your uniqueness evidence is from 1989—we’ve allowed hate speech and generally been a pretty racist country for decades, no reason why the impacts would specifically occur soon.

#### 2. The link is powertagged—it doesn’t say that ILaw is KEY to HR cred, just says it’s a part of it

#### 3. Numerous alt causes—police brutality, the war on terror, and Trump all prove other countries hate us.

#### 4. No reason why hate speech codes are effective—no uniqueness, hate speech groups are on the rise now so no uniqueness.

#### 5. No impact to cred and single issues aren’t key. Data proves.

Christopher Fettweis, professor of political science at Tulane, Credibility and the War on Terror, Winter 2008, Political Science Quarterly, Ingenta.

There is actually scant evidence that other states ever learn the right lessons. ColdWar history contains little reason to believe that the credibility of the superpowers had very much effect on their ability to influence others. Over the last decade, a series of major scholarly studies have cast further doubt upon the fundamental assumption of interdependence across foreign policy actions. Employing methods borrowed from social psychology rather than the economics-based models commonly employed by deterrence theorists, Jonathan Mercer argued that threats are far more independent than is commonly believed and, therefore, that reputations are not likely to be formed on the basis of individual actions. While policymakers may feel that their decisions send messages about their basic dispositions to others, most of the evidence from social psychology suggests otherwise. Groups tend to interpret the actions of their rivals as situational, dependent upon the constraints of place and time. Therefore, they are not likely to form lasting impressions of irresolution from single, independent events. Mercer argued that the interdependence assumption had been accepted on faith, and rarely put to a coherent test; when it was, **it almost inevitably failed**.

#### The U.S. still has soft power but its in jeopardy.

Gardels 2/10 Nathan (Editor-in-chief, The WorldPost) “Weekend Roundup: Disarming America’s Soft Power” Huffington Post February 10th 2017 <http://www.huffingtonpost.com/entry/weekend-roundup-156_us_589ddeabe4b03df370d5a8a7> JW

One of the most consequential victims of America’s radical change of course is its unique status as a beacon for a certain set of values in the world through its “soft power” appeal as a diverse nation of immigrants that has managed to live together in liberty under the rule of law. That image of America has already been fairly dashed by the package of policies and rhetoric during the first three weeks of Donald Trump’s presidency. The rest of the world is warily watching the continuing assault on what the president calls the “dishonest media,” a smear chillingly close to the Nazi-era term “Lügenpresse”, or “lying press.” Many beyond U.S. borders were shocked by the blanket ban on visas from several majority-Muslim countries, which is already being contested on the streets and in the U.S. courts. Former security officials see it as a gift to terrorist recruiters. Sara Afzal surveys the attitudes toward the ban of Iranians both in the U.S. and Iran. Yet, perhaps more menacing than the ban itself has been the president’s contemptuous denigration of the independent judiciary that is hearing the case, even belittling respected jurists who don’t agree with him as “so-called judges” and less qualified than “bad high school students.” Paul Gowder sees two factions emerging in this battle ― the “authoritarian” camp led by the president himself and the “constitutional” camp that includes the new Supreme Court nominee, Neil Gorsuch, who has called Trump’s comments on the judiciary “disheartening” and “demoralizing.” If the “reconstructive president” succeeds, what values will America stand for in the world at the end of this road of regime change? Soft power is arduously hard to attain but easy to lose. So far, the insistence of the U.S. courts in checking executive power actually further bolsters America’s positive image despite the new administration’s efforts.

## AT: Title IX DA

#### 1. Yes, Title IX is currently used to repress free speech, but the DA never proves that getting rid of speech codes will cause title IX to be revoked—that’s not even legally allowed.

Leef 15 George (I am a law school graduate who went into teaching rather than legal practice and then began to see how badly government has mangled education at all levels. Since 1999, I have worked at the John W. Pope Center for Higher Education Policy, a think tank that takes a critical view of higher education. Also, I do lots of free-lance writing and book reviews for a number of free-market organizations.) “Free Speech Can't Be Trumped By Title IX -- But College Officials Use It That Way” September 14th 2015 Forbes <http://www.forbes.com/sites/georgeleef/2015/09/14/free-speech-cant-be-trumped-by-title-ix-but-college-officials-use-it-that-way/3/#14e22ca04ceb> JW

In short, in trying to avoid liability for “sexual harassment” under Title IX, many schools have gone way too far. They have allowed hyper-sensitive or vindictive students to use Title IX regulations as a weapon against anyone whose speech offends or annoys them. Even though the Education Department officially has advised colleges (in a 2003 guidance letter) that Title IX may not be used to regulate the content of speech, its current approach works the opposite way. The reason is that the Department’s Office for Civil Rights control over federal money flowing to schools gives it great power to “influence” school officials. Again, Bader explains: “Using this massive leverage, OCR is now forcing some colleges to pay large amounts of compensation to students who allege harassment or sexual assault, even though it lacks statutory authority to award such compensatory damages.” The court in Yeasin can do its part by ruling that his speech was protected under the First Amendment and that the university cannot hide behind the “Title IX made us do it” defense. Congress, however, has the bigger part to play. It should head off future cases like Yeasin by clarifying what should already be (but unfortunately isn’t) clear: the First Amendment rights of students are not overridden by anything in Title IX. A good step in the direction would be for it to codify the Supreme Court’s definition of harassment in Davis v. Monroe County Board of Education. Under Davis, speech cannot be a Title IX violation unless it is unwelcome, aimed at individuals based on their sex, and sufficiently “severe, pervasive, and objectively offensive” that it interferes with the student’s ability to get an education. Unfortunately, as Bader observes, OCR has “thumbed its nose” at Davis by weakening the definition so that a lot of speech that is protected under the First Amendment seems to constitute “sexual harassment.” It’s easy to understand why. Bureaucrats love complicated regulations that generate large numbers of cases to keep themselves busy. Many also just like throwing their weight around. On college campuses, the rule ought to be that speech is protected even if it is no more than angry tweeting, but the Department of Education has turned free speech into a minefield. It’s up to the courts and Congress to sweep that minefield.

#### 2. The DA has an incredibly small probability—free speech won’t cause every single public college and university to lose funding necessary for scholarships. Even if Title IX were to be revoked from most of American colleges, other financial aid programs would fill in the gap—the country won’t just let its economy collapse since policymakers understand the importance of universities.

# CPs

## AT: Courts CP

#### 1. Perm, do both. The aff doesn’t specify an actor

#### 2. No NB or need to decide where to draw the brightline for free speech—the aff already establishes the brightline.

#### 3. Autonomy DA. Public colleges should adopt free speech for themselves so they can deal with the particulars of their speech codes and campuses—ensures effective aff solvency.

#### 4. Agent CPs aren’t competitive with the aff.

Damerdji 16 Salim (debate coach) “An Argument Against the States CP” NSD Update January 12th 2016 <http://nsdupdate.com/2016/01/12/an-argument-against-the-states-cp-by-salim-damerdji/> JW

There is no entity with the power to decide between state & federal action…. Why do we need to get further into educational or fairness concerns? The choice posed by the counterplan is silly because no entity has the power to choose between the plan and the counterplan. That is the real damage done by the states counterplan: Voting negative rejects the plan for a reason nobody should consider. I find this argument compelling, but if you don’t, consider the following analogy. Suppose you are a security guard working the night-shift at an art museum. You realize a disgruntled co-worker is wandering around, and to your dismay, punching painting after painting. You could run up to your co-worker and tackle them, but that would certainly damage the next painting. In an ideal world, your co-worker would stop their rampage on their own. But based on their aggressive demeanor, you figure this is unlikely. So the choice is yours: tackle your co-worker (and definitely cause more harm) or do nothing at all with the hope that your co-worker will abort their rampage on their own volition. It seems pretty compelling that you should take matters into your own hands. While it’d be ideal for your co-worker to stop their rampage on their own, you have little to no confidence that they will, and so you still have a moral obligation to stop the rampage. Now consider the States CP. The USFG sees serious harm in the status quo. It would be ideal for the 50 states to ban handguns instead of the federal government, but keep in mind, many of these 50 states openly oppose any gun control whatsoever, let alone a handgun ban. Moreover, it’s sheer fantasy to suppose all 50 states would act in unison. In sum, the ideal outcome, whereby the 50 states implement a handgun ban, is virtually zero. Just as the security guard would be foolish to play the odds of not acting, the same would be true for the federal government. In both cases, there’s little to no chance that the ideal actor would actually act. And so the obligation falls back to you, the non-ideal actor. As the language here suggests, this logic applies to all alternate actor CP’s, not just the 50 States CP.[2]

#### 5. Courts CPs are a voting issue: they kill aff ground and clash since you don’t have to answer the point of the 1AC which is that free speech is good and instead moot my offense making me start new in the 1AR—advantage CPs and rich neg topic literature solve your offense. No education benefit- you can read the CP as disads to both of those plans. Supreme Court is worse for real world- it’s utopian to imagine 8 lawyers all acting in unison.

## AT: Term Papers CP

#### 1. Permutation, do the CP—its plan plus since it does the same thing as the aff but just adds extra words. Prefer textual competition:

A] Textuality good – it’s the most objective non-arbitrary way to compare worlds because it doesn’t depend on implementation which can vary, provides a stasis point for argumentation

B] Judge intervention – functional competition relies on CX concessions that can’t be verified but textual competition is in the speech docs. That’s the worst harm to fairness since the round isn’t decided by better debating, but arbitrariness.

#### 2. Permutation, do both. A school restriction on buying term papers wouldn’t be unconstitutionally—the strict scrutiny clause is narrowly tailored to pursue compelling state interest.

David Rosenberg 91, Racist Speech the First Amendment and Public Universities: Taking a Stand on Neutrality , 76 Cornell L. Rev. 549 (1991).

**The court understood the tension reflected in the case between state interests and the first amendment**. 61 **Affirming** the state's right to regulate speech in the form of obscenity, sexual abuse, libel, and fighting words, the court invoked fundamental first amendment law:62 "The First Amendment presents no obstacle to the establishment of internal University sanctions as to any of these categories of conduct."'63 Additionally, the court said **that the University "may subject all speech and conduct to reasonable and nondiscriminatory time, place, and manner restrictions which are narrowly tailored and** which **leave open ample alternative means of communication."**64 **The court left the University free to regulate protected speech in the same manner as any other state actor, provided the regulation narrowly fits the state interest.** Following Supreme Court precedent, 65 the Michigan court drew the line at the pure suppression of ideas: **the University could not establish an anti-discrimination policy that effectively prohibited unpopular or offensive speech.66**

#### This is a time, manner and place regulation, not a content regulation, which means that as long as it passes strict scrutiny it’s constitutional.

#### 3. It’s not a restriction on free speech--

## AT: Revenge Porn CP

#### Permutation, do both—revenge porn isn’t constitutionally protected speech.

#### 1. Courts have found that lower level First Amendment scrutiny applies to nonconsensual publication of purely private matters like sex videos that the public has no interest in seeing – supports restricting revenge porn.

Citron 14 Danielle (Forbes contributor) “Debunking the First Amendment Myths Surrounding Revenge Porn Laws” Forbes April 18th 2014 www.forbes.com/sites/daniellecitron/2014/04/18/debunking-the-first-amendment-myths-surrounding-revenge-porn-laws/#2322e6584b89

The state interest in protecting the privacy of communications is strong enough to justify regulation if the communications involve “purely private” matters, like nude images. Neil Richards has persuasively argued, and lower courts have ruled, a lower level of First Amendment scrutiny applies to the nonconsensual publication of “domestic gossip or other information of purely private concern.” Appellate courts have affirmed the constitutionality of civil penalties under the wiretapping statute for the unwanted disclosures of private communications involving “purely private matters.” Along similar lines, lower courts have upheld claims for public disclosure of private fact in cases involving the nonconsensual publication of sex videos. In Michaels v. Internet Entertainment Group, Inc., an adult entertainment company obtained a copy of a sex video made by a celebrity couple, Bret Michaels and Pamela Anderson Lee. The court enjoined the publication of the sex tape because the public had no legitimate interest in graphic depictions of the “most intimate aspects of” a celebrity couple’s relationship. As the court explained, a video recording of two individuals engaged in sexual relations “represents the deepest possible intrusion into private affairs.” These decisions support the constitutionality of efforts to criminalize revenge porn. Nude photos and sex tapes are among the most private and intimate facts; the public has no legitimate interest in seeing someone’s nude images without that person’s consent. A prurient interest in viewing someone’s private sexual activity does not change the nature of the public’s interest. On the other hand, the nonconsensual disclosure of a person’s nude images would assuredly chill private expression. Without any expectation of privacy, victims would not share their naked images. With an expectation of privacy, victims would be more inclined to engage in communications of a sexual nature. Such sharing may enhance intimacy among couples and the willingness to be forthright in other aspects of relationships. The fear of public disclosure of private intimate communications would have a “chilling effect on private speech.”

#### Child pornography prohibitions prove that the government can restrict certain types of exploitative practices while upholding the first amendment.

#### Even if revenge porn isn’t prohibited by the 1st amendment, confidentiality law constitutionally prohibits it.

Hartzog 13 Woodrow (assistant professor at Samford University Cumberland School of Law) "How to Fight Revenge Porn." The Atlantic: May 10, 2013. www.theatlantic.com/technology/archive/2013/05/how-to-fight-revenge-porn/275759/

But one legal argument has somehow failed to make a major appearance in revenge-porn cases: confidentiality. Broadly speaking, to confide is "to give to the care or protection of another," and it is often the defining trait of explicit media shared between romantic partners. Simply put, explicit images and videos are unlikely to be created or shared with an intimate without some expectation or implication of confidence. This reality has been acknowledged but underutilized in the dominant narrative on non-consensual pornography. In contrast to new rights that would be created by proposed "anti-revenge porn" laws, confidentiality is already a well-established legal concept. It is older than all of the privacy torts and statutes in America. Nevertheless, the concept has languished in law and our conversations about social relationships. Arguably, there are several reasons for this. Confidentiality agreements are socially awkward and provide for limited damages. Traditionally confidential relationships are rare, usually being limited to professional relationships like those between doctors and patients and attorneys and clients. Perhaps most significantly, confidentiality law doesn't directly restrict the most injurious actor in the debate -- websites. While romantic partners who receive explicit materials might be prohibited from further disclosure, websites and other third-party recipients are not bound by the same rules because they presumably have no relationship with the person depicted in the media. But one of the most likely reasons confidentiality law has not played a larger role in the modern privacy debate is that most of our social communications are not conditioned upon an express or even implied promise of confidentiality. It is difficult to imagine, though, a more illustrative context of implied confidences than explicit material shared between intimates. Indeed, this argument has been made for some time now. Yet confidentiality law has remained a relatively limited and insignificant remedy in the larger patchwork of privacy jurisprudence. We should have a better national dialogue about a romantic partner's obligations of confidentiality. Salient norms of confidentiality would strengthen our relationships as well as the legal remedies for those whose trust has been betrayed. Notably, confidentiality law is not as problematic under the First Amendment as legislation or other tort remedies. Instead of prohibiting a certain kind of speech, confidentially law enforces express or implied promises and shared expectations. The tort of breach of confidentiality is currently very limited in scope, but could be made much more robust to sit alongside the more commonly asserted privacy torts. Under an "inducement to breach confidentiality" theory, it is even possible that certain websites would not be able to take full advantage of the immunity typically provided by Section 230 of the Communications Decency Act. So how are individuals in a romantic relationship supposed to determine whether information is confidential? The best practice has always been to secure an explicit promise of confidentiality. But that's not always feasible. Confidentiality can also be implied, though determining when it is is a little more complicated. Fortunately, courts have left clues in previous court cases that will help people determine when information should be considered confidential. These clues are consistent with Helen Nissenbaum's theory of privacy as contextual integrity, which has seemingly been embraced by the FTC, among others. Based on case law, it seems that there are a few important aspects in any given context to consider. Developed relationships are more likely to be confidential than brief or shallow ones. Confidentiality is more likely to be found when it is supported by contextual norms and when the information disclosed is sensitive. Courts consider whether the victim requested confidentiality and, even more importantly, whether the recipient promised not to disclose the information. These promises can be vague or even implied. The important question is whether a confidence was apparent before the sensitive information was shared. With the exception of an explicit promise of confidentiality, none of these considerations are dispositive, but rather something to be considered as part of a whole. Confidentiality is no panacea. Some victims might incorrectly assume a confidence where legally none exists. Confidentiality doesn't cover surreptitious recordings from peeping toms and the like. There is only a limited recovery available for broken contracts of confidentiality. But the law can evolve over time. If the confidential nature of intimate relationships becomes more prominent in society and enough victims assert their rights, both courts and distributors will receive a clear signal that non-consensual pornography is actionable under one of the most basic and important concepts in the history of American privacy. At its core, confidentiality is about people trusting other people to protect them by keeping certain information close. Trust leaves people vulnerable because the choice of whether to reveal information is no longer theirs alone. This loss of control and reliance on others is precisely why the law is willing to enforce those promises and fortify those special relationships. Confidentiality should no longer be assumed away in favor of ineffective remedies. It should play a much more prominent role in the discussion surrounding non-consensual pornography. What kind of information could possibly be more confidential?

# NCs

## AT: ILaw NC

### Contention

#### U.S. hasn't ratified UN covenants about freedom of expression

Kretzmer 87, David. (Louis Marshall Professor of Environmental Law, Hebrew University of Jerusalem) *Freedom of Speech and Racism.* Cardozo Law Review. Vol. 8:445. 1987. NP 1/2/17.

The United States is one democratic country in which freedom of expression arguments have prevailed over damage caused by racism and racist behavior. While a few states still have group defamation laws on their statute books,23 and while the Supreme Court upheld the constitutionality of such laws in the 1952 decision Beauharnaisv. Illinois,24 most civil libertarians in the United States vehemently op- pose any restrictions on freedom of expression, including those inher- ent in anti-hate laws.25 They argue that group defamation laws are inconsistent with the first amendment and that although the Supreme 26 Court has not formally overruled Beauharnais, it is no longer good law.2" The United States voted for adoption of the International Cov- enant on Civil and Political Rights28 and signed the Convention on the Elimination of All Forms of Racial Discrimination 9 but these conventions have not been ratified. In the presidential message to the Senate, which accompanied the President's request for advice and consent on the conventions, the State Department took the line that the convention provisions regarding bans on racist speech are con- trary to the freedom of speech guaranteed by the United States Con- stitution. It therefore recommended that the United States should attach reservations to its ratification of these treaties.3 °

### AT: Fwk

1. They provide no hierarchy of international laws or higher standard to weigh between two conflicting international norms. This is necessary for a weighing mechanism to be able to prioritize one link over another, so either a) the criterion fails its primary purpose, or b) this means it isn’t evaluable as a standard so different international treaties and contractual agreements will necessarily conflict, [meaning the standard concludes that everything is permissible.]

2. Lawyers and judges spend their entire lives attempting to identify the brightline for when people violate international law, and they disagree, so there is no way we could find this line in the debate round. This is necessary because it establishes which arguments link to the standard, and which are affirmative or negative ground, which means that you have to reject that standard because it is impossible to evaluate.

3. There is no such thing as international law since the international arena is inherently anarchic. There is no single body that is recognized to have total unquestionable authority over all states, and hence consistency with international norms cannot be weighed.

4. Localized ethics is preferable to international law since it more closely reflects what the views of particular individuals within a community are, and does not allow some to subjectively impose their beliefs on others.

## AT: Kant NC

### Government Criticism

#### Public universities and colleges are founded and operated by the state.

Collegebound “Differences Between Public and Private Universities and Liberal Arts Colleges” <http://www.collegebound.net/content/article/differences-between-public-and-private-universities-and-liberal-arts-colleges/18529/> JW

In the US, most public institutions are state universities founded and operated by state governments. Every state has at least one public university. This is partially due to the 1862 Morrill Land-Grant Acts, which gave each eligible state 30,000 acres of federal land to sell to finance public institutions offering study for practical fields in addition to the liberal arts. Many public universities began as teacher training schools and eventually were expanded into comprehensive universities.

#### And, restricting freedom of speech puts the sovereign in contradiction with its supreme authority, undermining the omnilateral will.

Suprenant 15 Chris W. “Kant on the Virtues of a Free Society” April 7th 2015 <https://www.libertarianism.org/columns/kant-virtues-free-society> JW

The second point is a bit less straightforward. His claim is that a sovereign that outlaws free speech creates a condition where [their] his actions “put [them] him in contradiction with himself.” This language is remarkably similar to what he uses in his moral theory to describe principles that violate the categorical imperative, Kant’s supreme principle of morality. In the Groundwork, Kant claims that when a principle of action fails when tested against the categorical imperative, it fails because something about that principle is contradictory. It may be the case that it is not possible to conceive of the action that comes about as a result of universalizing the underlying principle connected to the action (i.e., a contradiction in conception), or the result of universalizing the principle is self-defeating in some way (i.e., a contradiction in the will). In the case of the sovereign restricting freedom of the press, the contradiction appears to be more practical. Elsewhere Kant argues what justifies sovereign authority is that his actions are supposed to represent the united will of the people (MM 6:313). But a sovereign that denies free speech and otherwise undermines the conditions necessary to maintain a free society has made it impossible to gather the information needed to represent the will of the people appropriately. In this way, Kant sees any attempt by the sovereign to limit or otherwise suppress the free exchange of ideas, and, in particular, the exchange of ideas among the educated members of society (e.g., academics), as undermining his own authority.

#### This outweighs: A. The aff sets the best rule—even if hate speech is immoral, once the government begins to regulate it, it gives them the power to suppress criticism by applying the law in false ways. B. This offense is specific to political philosophy so the justification outweighs their offense.

Varden 10 on Kant Helga Varden (Associate Professor of Philosophy at the University of Illinois) “A Kantian Conception of Free Speech” May 22nd 2010 Freedom of Expression in a Diverse World Volume 3 of the series AMINTAPHIL: The Philosophical Foundations of Law and Justice pp 39-55 <http://link.springer.com/chapter/10.1007%2F978-90-481-8999-1_4> JW

It would be tempting, but wrong, to conclude from the above that a full liberal critique of free of speech rights found in liberal states can be established by means of an account derived, ultimately, from private persons’ rights against one another. For then Kant would be seen as arguing that constitutional protection of free speech is merely about ensuring that people are not punished when speech does not involve private wrongdoing. But Kant’s defense of free speech is much stronger than this. On his view, crucially, the right to free speech also protects the possibility of criticism of the public authority, since the right to speak out against the state is necessary for the public authority to be representative in nature. Therefore, this right to free speech is constitutive of the legitimacy of the political authority, namely constitu- tive of the political relation itself – a relation that does not exist in the state of nature. The right to political speech therefore does not rely on the justification provided by the private right argument that words cannot coerce. This aspect of the right to free speech is rather seen as following from how the public authority must protect and facilitate its citizens’ direct, critical engagement with public, normative standards and practices as they pertain to right. There are no a priori solutions or knowledge with regard to the actual formulation of the wisest laws and policies to enable rightful interaction. It is only through public discussion protected by free speech that the public authority can reach enlightenment about how and whether its own laws and institutions really do enable reciprocal external freedom under law for all. That is to say, only by protecting the citizens’ right freely to express their often controversial and critical responses to the public authority’s operations can the public authority possibly take its decisions to represent the common, unified perspective of all its citizens. Without knowledge of how the decisions affect the citizens, it is simply impossible to function as a representative authority. Therefore, the state has the right and duty constitutionally to protect its citizens’ right to free speech; the right to free speech is constitutive of the rightful relation between citizens and their state.

### Freedom

#### Even immoral speech cannot be legally restricted because it doesn’t coerce other individuals inherently.

Varden 10 summarizes an argument from Kant Helga Varden (Associate Professor of Philosophy at the University of Illinois) “A Kantian Conception of Free Speech” May 22nd 2010 Freedom of Expression in a Diverse World Volume 3 of the series AMINTAPHIL: The Philosophical Foundations of Law and Justice pp 39-55 <http://link.springer.com/chapter/10.1007%2F978-90-481-8999-1_4> JW

2 Virtuous Versus Rightful Private Speech In order to understand Kant’s conception of free speech we need a good grasp of his conception of rightful relations in general. With this conception in hand, we can see how Kant conceives of rightful private speech. Then we can see how rightful private speech is distinguished from rightful public speech, namely that which is protected or outlawed by various public law measures, including free speech legislation. Right, for Kant, is solely concerned with people’s actions in space and time, or what he calls our “external use of choice” (6: 213f, 224ff). When we deem each other and ourselves capable of deeds, meaning that we see each other and ourselves as the authors of our actions, we “impute” these actions to each other and to ourselves. Such imputation, Kant argues, shows that we judge ourselves and each other as capable of freedom under laws with regard to external use of choice – or ‘external freedom’ (6: 227). Moreover, when we interact, we need to enable reciprocal external freedom, meaning that we must find a way of interacting that is consistent with everybody’s external freedom. And this is where justice, or what Kant calls ‘right’ comes in. Right is the relation between interacting persons’ external freedom such that reciprocal external freedom is realized (6: 230). This is what Kant means when he says that rightful interactions are interactions reconcilable with each person’s innate right to freedom, namely the right to “independence from being constrained by another’s choices... insofar as it can coexist with the freedom of every other in accordance with a universal law” (6: 237). For Kant, right requires that universal laws of freedom, rather than anyone’s arbitrary choices, reciprocally regulate interacting individuals’ external freedom. The first upshot of this conception of right is that anything that concerns morality as such is beyond its proper grasp. Right concerns only external freedom, which is limited to what can be hindered in space and time (coerced), whereas morality also requires internal freedom. That is to say, morality encompasses both right and virtue, and virtue requires what Kant calls freedom with regard to “internal use of choice”. Internal freedom requires a person both to act on universalizable maxims and to do so from the motivation of duty (6: 220f) – and neither can be coercively enforced. This is why Kant argues that only freedom with regard to interacting persons’ external use of choice (right) can be coercively enforced; freedom with regard to both internal (virtue) and external use of choice – morality – cannot be coercively enforced (ibid.). Because morality requires freedom with regard to both internal and external use of choice, it cannot be enforced. This distinction between internal and external use of choice and freedom explains why Kant maintains that most ways in which a person uses words in his interactions with others cannot be seen as involving wrongdoing from the point of view of right: “such things as merely communicating his thoughts to them, telling or promising them something, whether what he says is true and sincere or untrue and insincere” do not constitute wrongdoing because “it is entirely up to them [the listeners] whether they want to believe him or not” (6: 238). The utterance of words in space and time does not have the power to hinder anyone else’s external freedom, including depriving him of his means. Since words as such cannot exert physical power over people, it is impossible to use them as a means of coercion against another. For example, if you block my way, you coerce me by hindering my movements: you hinder my external freedom. If, however, you simply tell me not to move, you have done nothing coercive, nothing to hinder my external freedom, as I can simply walk passed you. So, even though by means of your words, you attempt to influence my internal use of choice by providing me with possible reasons for acting, you accomplish nothing coercive. That is, you may wish that I take on your proposal for action, but you do nothing to force me to do so. Whether or not I choose to act on your suggestion is still entirely up to me. Therefore, you cannot choose for me. My choice to act on your words is beyond the reach of your words, as is any other means I might have. Indeed, even if what you suggest is the virtuous thing to do, your words are powerless with regard to making me act virtuously. Virtuous action requires not only that I act on the right maxims, but that I also do so because it is the right thing to do, or from duty. Because the choice of maxims (internal use of choice) and duty (internal freedom) are beyond the grasp of coercion, Kant holds that most uses of words, including immoral ones such as lying, cannot be seen as involving wrongdoing from the point of view of right.

### AT: Hate Speech (Varden)

#### 1. Hate speech doesn’t intrinsically interfere with another’s ends so its not relevant underneath the framework—you can conceive of a situation in which those words don’t have as much weight.

#### 2. There is no a priori distinction between hate speech and normal speech which means it can’t be afforded a separate category of obligations

#### 3. The state has an obligation to rectify historical oppression, but it can’t do that by randomly intervening to prevent specific harms. That would give the state functionally infinite control which violates the standard

# Ks

## AT: Mouths Shut K (Lynbrook)

#### 1. Public activism has empirically worked—the civil rights movement proves we can devise strategies to improve material conditions that exist in public spheres. Huge violence DA to the alt—public movements have the ability to mobilize lots of people and redistribute power in an effective way.

#### 2. Permutation, do both. We’ll use public activism as a ruse to convince people that our movement is public, when in reality we have secretive challenges like the alternative. Solves better because those with power won’t become suspicious.

#### 3. Completely secretive action makes violence inevitable because you don’t take power away from those who have it—that means it’s try or die for the aff for pragmatic, public actions.

#### 4. TURN—by outlining that secrecy is a good thing, you’ve broken the secret by making it publicly known that we should be secretive.

#### 5. Weigh the aff against the K—captures the benefits of both models of debate, you should lose if you don’t prove the reps of the aff are worse than the benefits of the aff since you haven’t won my speech act is bad.

6. No link. The plan text specifically doesn’t have language that bites the K. Proves the K only links to the discourse of the cards. Two implications:

#### A. Not a reason to drop me—the judge has the option to vote aff for any reason, just like I can kick out of one advantage but win another one, you can choose to vote for parts of the AC that don’t link to the K.

#### B. Justifies K’s that link to only one word in one card, makes debate vacuous and not about substantive issues, also crushes discussion about the overall legitimacy of our speech acts.